

## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary  
William R. Selbig, Regional Director

Oshkosh Service Center  
905 Bay Shore Drive  
P.O. Box 2565  
Oshkosh, Wisconsin 54903  
Telephone 920-424-3050  
FAX 920-424-4404

August 30, 1999

Mr. James Nigl  
556 W. 9<sup>th</sup> Avenue  
Oshkosh, WI 54901

SUBJECT: **Conditional** Case Closure of  
Nigl Bar Parking Lot, 804 Ohio Street, Oshkosh  
**WDNR BRRTS ID # 03-71-116152**  
PECFA Claim #54901-5962-04

Dear Mr. Nigl:

The above referenced case file has been reviewed by the WDNR's Northeast Region Case Closure Committee. This panel reviews environmental remediation cases for compliance with state laws, standards, and guidelines to maintain consistency in the closeout of cases. After careful review, the Committee has decided to grant a **conditional** case closure. At this time, it appears that actions have been taken to the extent practicable to restore the environment and minimize the harmful effects from this discharge to the air, lands and waters of the state.

### **First Condition: Deed Restriction**

The WDNR is requiring no further remedial action at this time on the condition that *you sign and file the attached "Declaration of Restriction" with your county Register of Deeds office and send proof of this filing to the Department.* The attached restriction also includes maps, which should also be filed with the text. The deed restriction includes information concerning the property impacted by the restriction that has been provided by you and/or your consultant (or attorney). (The restriction is a Department standard format and has been drafted with oversight from Department attorneys. Please contact me if you have any questions or concerns regarding the restriction as written.)

Please note that case closure is dependent upon the filing of this deed restriction. *If the restriction is not filed with the County Register of Deeds, the case remains active and continued sampling of the monitoring wells at the site will be required.* A workplan of the sampling schedule and maintenance of the monitoring wells will be required within 90 days of the date of this letter if verification of the restriction filing is not received as indicated above.

In addition, groundwater exceedances exist within property owned by the City of Oshkosh and require a restriction or letter of acknowledgment from the City. The specific locations of these groundwater standard exceedances on the City's property are as follows:

Monitoring Well MW-1 for Benzene at 130 micrograms per liter (ug/l) and Naphthalene at 20 ug/l.



Do:

Monitoring Well MW-2 for Benzene at 100 ug/l and 1,2 Dichloroethane at 7.8 ug/l.  
Monitoring Well MW-5 for Benzene at 15 ug/l and 1,2 Dichloroethane at 9.4 ug/l.

In cases such as yours, the City has not been willing to provide the WDNR with any acknowledgment of these contamination restrictions. The WDNR is pursuing another method in which to identify these off-site restrictions, which would be through the use of an electronic mapping system known as the Geographic Information System ("GIS") database. The State Legislature is currently debating the Governor's Budget recommendations, which include a method of notating these groundwater restrictions on a GIS database maintained by the Department. Based upon the status of these closure options, your case will remain "open" on the Department's Remediation & Redevelopment Tracking system until a GIS notation is legally available as a closure option.

**Second Condition: Monitoring Well Abandonment**

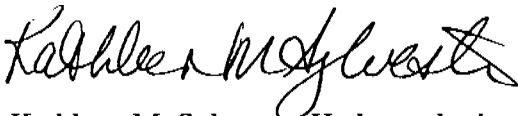
*After* filing the restriction with the county, all monitoring wells, sumps, and/or boreholes must be abandoned according to Chapter NR 141, Wisconsin Administrative Code. The abandonment forms (#3300-5B) should be sent to my attention.

Until verification of **both** the restriction and abandonment documentation is received, the DNR will continue to track this facility as an active BRR site.

Please be aware that this letter does not absolve the current or any future owner of this property, from future decisions regarding this site or impacts which may be discovered and/or traced to past or future activities at this site. If additional information in the future indicates that further investigation and/or remediation is warranted, the Department will require that appropriate action be taken at that time.

The Department appreciates your efforts to protect and restore the environment at this site. If you have any questions regarding this letter, please contact me at (920) 424-0399.

Sincerely,



Kathleen M. Sylvester, Hydrogeologist  
Bureau for Remediation & Redevelopment

cc: Case File – OSH  
Bruce Urban - NER  
Lori Huntoon, Wisconsin Department of Commerce, P.O. Box 7838,  
Madison, WI 53707-7838  
Chris Ewald, Environmental Compliance Consultants, P.O. Box 1612, Oshkosh, WI 54902

STATE BAR OF WISCONSIN FORM 3 - 1982  
QUIT CLAIM DEED

DOCUMENT NO.

Carla D. Nigl

quit-claims to James A. Nigl

the following described real estate in Winnebago County,  
State of Wisconsin.

Lots One (1), Two (2), Thirteen (13) and Fourteen (14),  
all of Block Ninety-nine (99) in the plat of the  
Original Third Ward, in the Sixth Ward, City of  
Oshkosh, per Leach's Map of 1894, Winnebago County,  
Wisconsin.

Register's Office  
Winnebago County, Wis.  
Received for record  
this 12th Day of  
October  
A.D. 1996 at  
8:00 o'clock A.M.  
Susan W. Werninghoff  
REGISTER OF DEEDS

952239

THIS SPACE RESERVED FOR RECORDING DATA

NAME AND RETURN ADDRESS

PARCEL IDENTIFICATION NUMBER

THIS QUIT CLAIM DEED IS GIVEN PURSUANT TO A JUDGMENT OF DIVORCE IN RE: THE MARRIAGE OF:  
CARLA D. NIGL AND JAMES A. NIGL, WINNEBAGO COUNTY, WISCONSIN, CASE NO. 95-FA-633.

ENERGY  
CODE

FEE

W. 11

# 8  
EXEMPT

This is not homestead property  
(is) (is not)

Dated this 8 day of October, 1996

(SEAL)

(SEAL)

(SEAL)

(SEAL)

Carla D. Nigl

CARLA D. NIGL

AUTHENTICATION

Signature(s) Carla D. Nigl

authenticated this 8 day of October, 1996

John E. Bermingham

TITLE: MEMBER STATE BAR OF WISCONSIN

(If not,  
authorized by §706.06, Wis. Stats.)

THIS INSTRUMENT WAS DRAFTED BY  
Attorney Timothy R. Young

One Pearl Avenue, Oshkosh, WI 54902

(Signatures may be authenticated or acknowledged. Both are not  
necessary.)

ACKNOWLEDGMENT

State of Wisconsin,

Winnebago

County, ss

Personally came before me this 12 day of  
October, 1996, the above named

Carla D. Nigl

to me known to be the person who executed the foregoing  
instrument and acknowledge the same

Notary Public, Winnebago County, Wis.

My commission is permanent. (If not, state expiration date  
19\_\_)

\* Names of persons signing in any capacity should be typed or printed below their signatures

QUIT CLAIM DEED

STATE BAR OF WISCONSIN  
Form No. 3 - 1982

Wisconsin Legal Blank Co., Inc.  
Milwaukee, Wis.

Document Number

GROUNDWATER USE RESTRICTION

In re: Lots One (1), Two (2), Thirteen (13) and Fourteen (14), all of Block Ninety-nine (99) in the plat of the Original Third Ward, in the Sixth Ward, City of Oshkosh, per Leach's Map of 1894, Winnebago County, Wisconsin.

Also known as 804 Ohio Street, Oshkosh, Wisconsin.

1082301

REGISTER'S OFFICE  
WINNEBAGO COUNTY, WI  
RECORDED ON

12-22-1999 01:02 PM

SUSAN WINNINGHOFF  
REGISTER OF DEEDS

RECORDING FEE 14.00  
TRANSFER FEE  
# OF PAGES 3

Recording Area

Name and Return Address

Jim Nigl APT  
1260 CUMBERLAND  
OSHKOSH, WIS  
54904

Parcel Identification Number (PIN)

Declaration of Restrictions

STATE OF WISCONSIN )  
COUNTY OF WINNEBAGO ) ss

WHEREAS, James A. Nigl is the owner of the above-described property.

WHEREAS, one or more petroleum-related discharges have occurred at this property. Petroleum-related contaminated groundwater above NR 140 enforcement standards exists on this property at the following location:

Monitoring Well MW-3 for Benzene at 700 ug/l, Ethylbenzene at 840 ug/l, and Naphthalene at 42 ug/l.  
as identified on Figure 2 hereby attached and made a part of this groundwater use restriction.

WHEREAS, it is the desire and intention of the property owner to impose on the property restrictions which will make it unnecessary to conduct additional soil or groundwater remediation activities on the property at the present time.

WHEREAS, natural attenuation has been approved by the Department of Natural Resources to remediate groundwater exceeding ch. NR 140 groundwater standards within the boundaries of this property.

WHEREAS, construction of wells where the water quality exceeds the drinking water standards in ch. NR 809 is restricted by ch. NR 811 and ch. NR 812. Special well construction standards or water treatment requirements, or both, or well construction prohibitions may apply.

NOW THEREFORE, the owner hereby declares that all of the property described above is held and shall be held, conveyed or encumbered, leased, rented, used, occupied and improved subject to the following limitation and restrictions:

Anyone who proposes to construct or reconstruct a well on this property is required to contact the Department of Natural Resources' Bureau of Drinking Water and Groundwater, or its successor agency, to determine what

specific prohibitions or requirements are applicable, prior to constructing or reconstructing a well on this property. No well may be constructed or reconstructed on this property unless applicable requirements are met.

This restriction is hereby declared to be a covenant running with the land and shall be fully binding upon all persons acquiring the above-described property whether by descent, devise, purchase or otherwise. This restriction benefits and is enforceable by, the Wisconsin Department of Natural Resources, its successors and assigns. The Department, its successors or assigns, may initiate proceedings at law or in equity against any person or persons who violate or are proposing to violate this covenant, to prevent the proposed violation or to recover damages for such violation.

Any person who is or becomes owner of the property described above may request that the Wisconsin Department of Natural Resources or its successor issue a determination that the restrictions set forth in this covenant are no longer required. Upon receipt of such a request, the Wisconsin Department of Natural Resources shall determine whether or not the restrictions contained herein can be extinguished. If the Department determines that the restrictions can be extinguished, an affidavit, with a copy of the Department's written determination, may be recorded to give notice that this groundwater use restriction, or portions of this groundwater use restriction are no longer binding.

IN WITNESS WHEREOF, the owner of the property has executed this Declaration of Restrictions, this 22nd day of Dec., 1999.

Signature: James A. Nigl

Printed Name: James A Nigl

Title: Owner

Subscribed and sworn to before me  
this 22nd day of Dec., 1999

Nancy A. Nebel

Nancy A. Nebel  
Notary Public, State of Wisconsin - Winnebago County

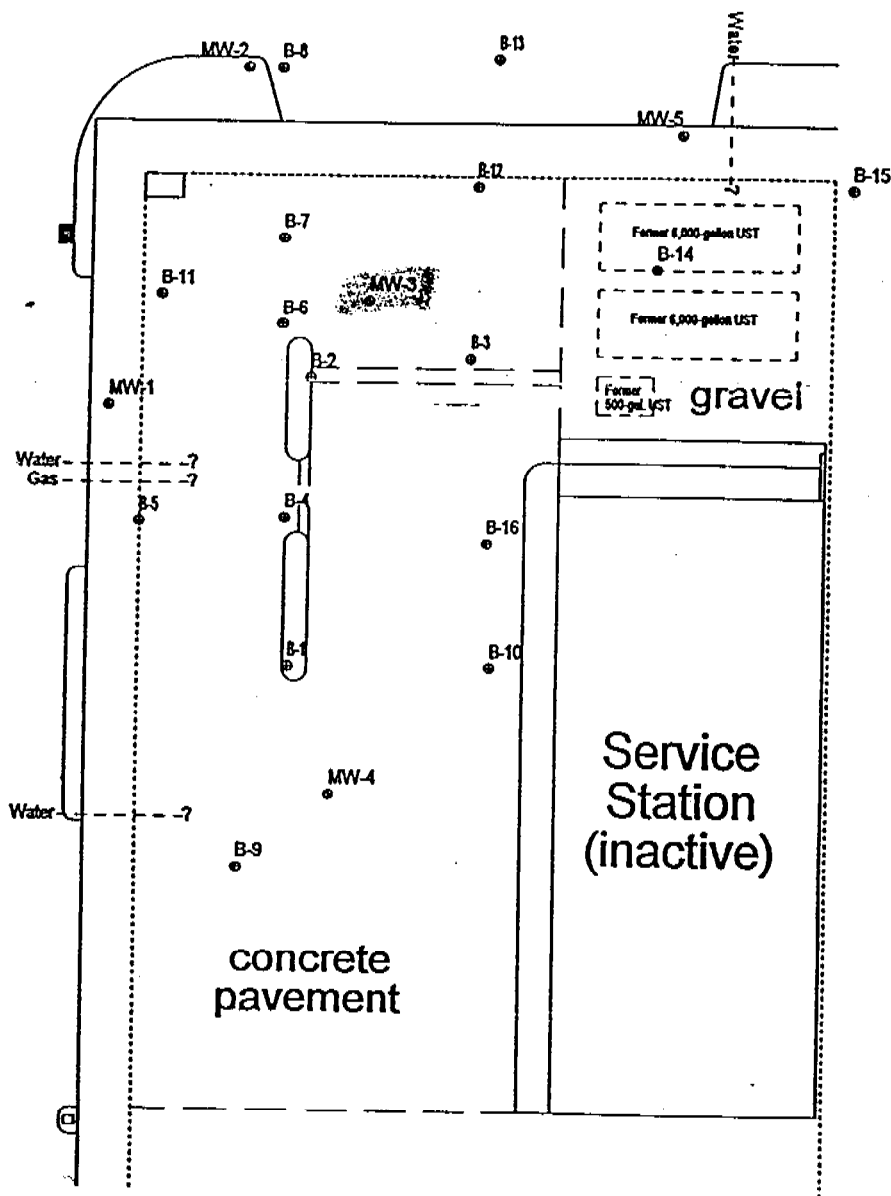
My commission expires 7/1/2001

This document was drafted by the Wisconsin Department of Natural Resources.



8th Avenue

Ohio Street



NIGL'S BAR, OSHKOSH, WI

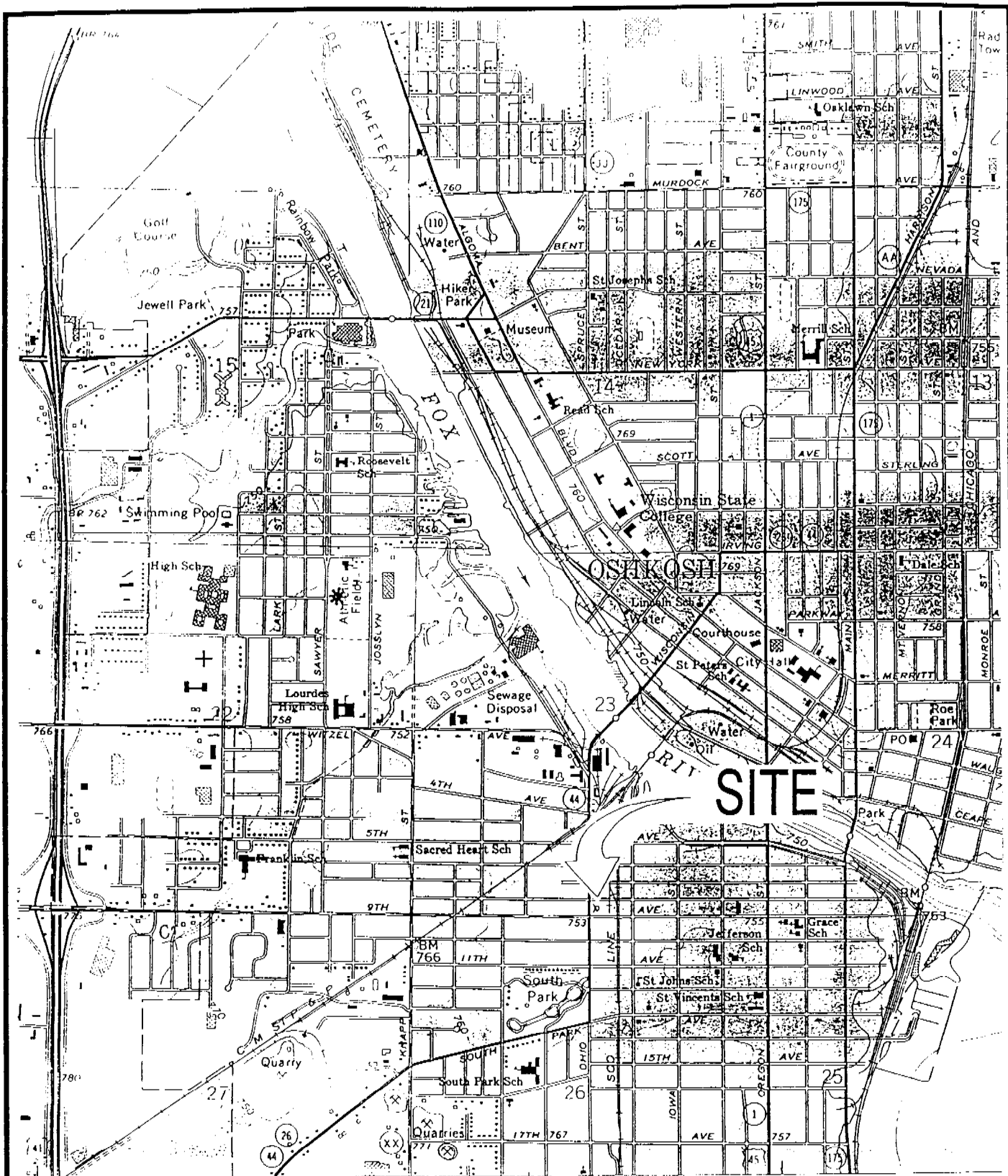
Figure 2  
Site Detail Map

Scale: 1" = 20'

Date: May 31, 1999

Environmental Compliance Consultants, Inc.

By: Chris Ewald



NOTE Taken from the  
Oshkosh, Wisconsin  
7.5 Minute USGS Topographic Map  
(1961, photorevised 1975)



NIGL'S BAR - OSHKOSH, WISCONSIN

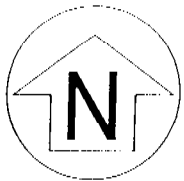
# FIGURE 1 SITE LOCATION MAP

SCALE 1" = 2000'

DATE 16 June 97

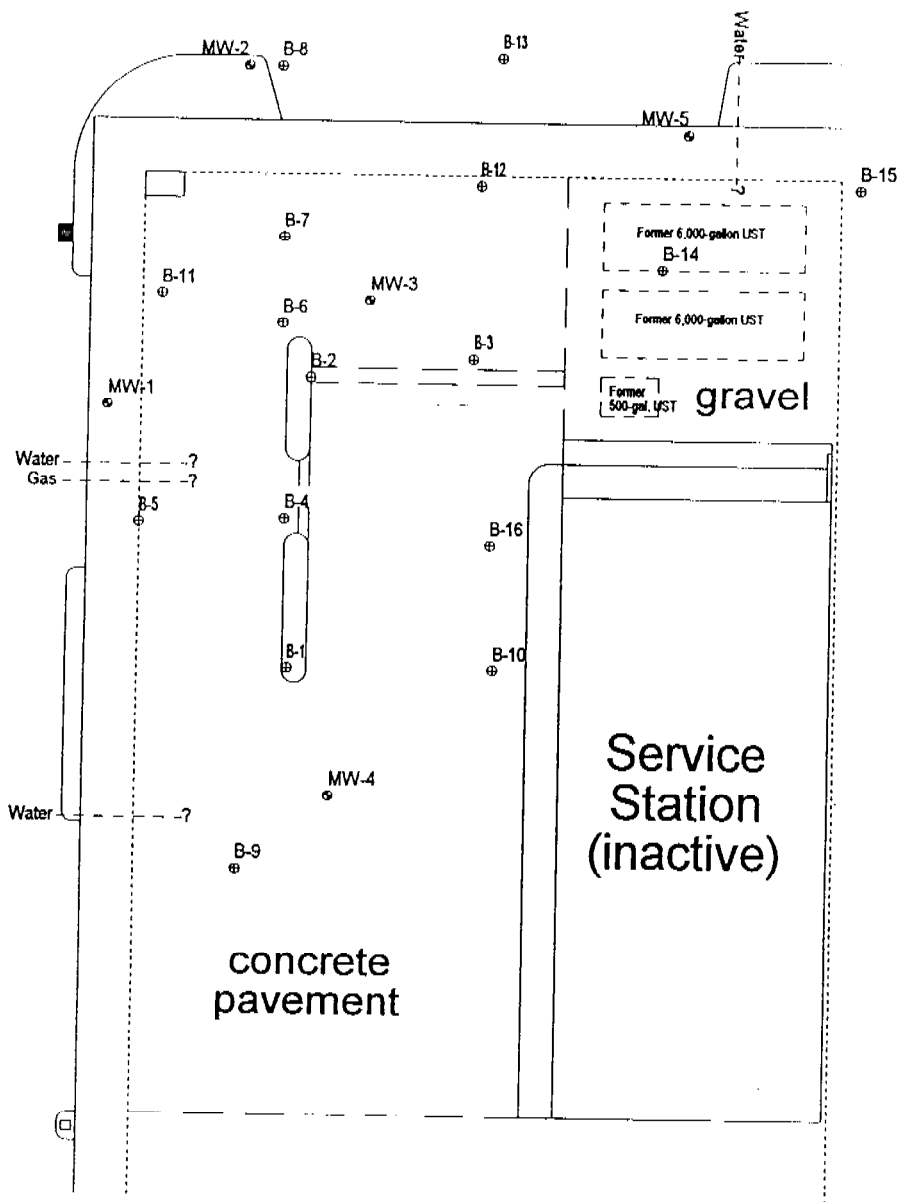
Environmental Compliance Consultants, Inc.

BY (WAL)



8th Avenue

Ohio Street



NIGL'S BAR, OSHKOSH, WI

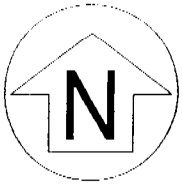
Figure 2  
Site Detail Map

Scale: 1" = 20'

Date: May 31, 1999

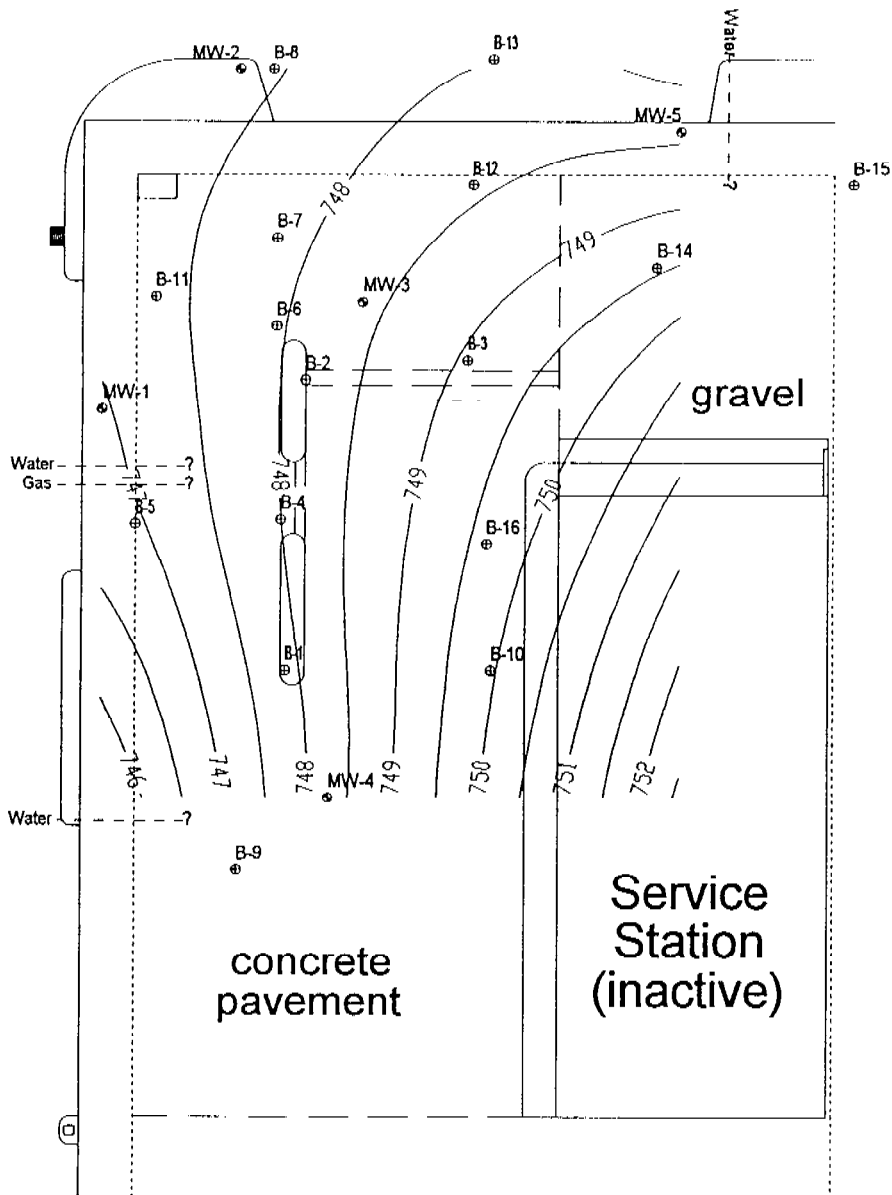
Environmental Compliance Consultants, Inc.

By: Chris Ewald



## 8th Avenue

Ohio Street



NIGL'S BAR, OSHKOSH, WI

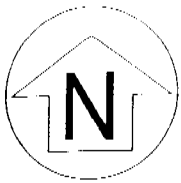
Figure 11  
Shallow GW Map - 23 Feb 99

Scale: 1" = 20'

Date: May 31, 1999

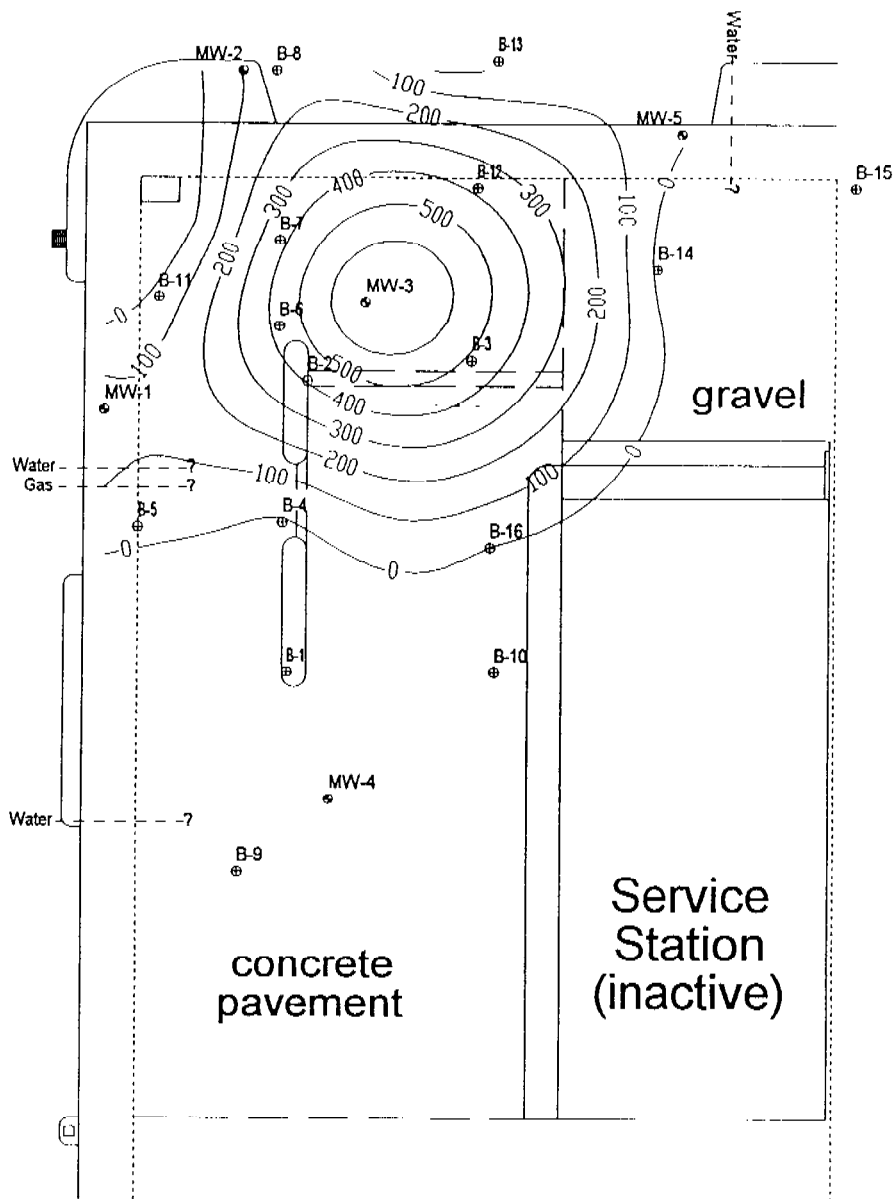
Environmental Compliance Consultants, Inc.

By: Chris Ewald



8th Avenue

Ohio Street



NIGL'S BAR, OSHKOSH, WI

Figure 15  
GW Contam. Map - Benzene, 23 Feb 99

Scale: 1" = 20'

Date: May 31, 1999

Environmental Compliance Consultants, Inc.

By: Chris Ewald

TABLE 3

## FIELD MEASUREMENTS AND GROUNDWATER ANALYTICAL RESULTS

Nigl's Bar, Oshkosh, WI

PARAMETERS:		MW - 1			MW - 2			MW - 3					
		27-Feb-98	27-May-98	16-Sep-98	23-Feb-99	27-Feb-98	27-May-98	16-Sep-98	23-Feb-99	27-Feb-98	27-May-98	16-Sep-98	23-Feb-99
Water Table Elevation (FT. MSL):													
Depth to Groundwater													
Groundwater Elevation													
Direct Fuel Parameters (ppm):		ES		PAL		ES		PAL		ES		PAL	
GRO	NE	NE	510	NA	NA	NA	980	NA	NA	NA	7900	NA	NA
DRO	NE	NE	1300	NA	NA	NA	1300	NA	NA	NA	2900	NA	NA
Volatile Organic Compounds (ppb):													
Benzene	5	0.5	88	340	63	130	150	240	220	100	1200	930	880
n-Butylbenzene	NE	NE	0.92*	NA	NA	NA	2.6	NA	NA	NA	6.6*	NA	NA
Chloroethane	400	80	< 0.25	NA	NA	NA	< 0.25	NA	NA	NA	< 2.5	NA	NA
1,2-Dichloroethane	5	0.5	< 0.24	NA	NA	NA	12	< 1.8	11	7.8	< 2.4	NA	NA
Ethylbenzene	700	140	14	400	94	37	8.9	290	220	210	1200	860	840
Isopropylbenzene	NE	NE	1.5	NA	NA	NA	1.2	NA	NA	NA	24	NA	NA
p-Isopropyltoluene	NE	NE	< 0.22	NA	NA	NA	0.23*	NA	NA	NA	< 2.2	NA	NA
Methylene Chloride	5	0.5	0.4*	NA	NA	NA	< 0.22	NA	NA	NA	< 2.2	NA	NA
Methyl-tert-butyl-ether	60	12	< 0.53	< 0.80	2.3	2.4	1.5*	< 1.6	< 0.64	< 0.32	< 5.3	< 3.2	< 4.4
Naphthalene	40	8	12	85	35	20	7.2	72	43	27	99	83	48
n-Propylbenzene	NE	NE	1.9	NA	NA	NA	1.5	NA	NA	NA	35	NA	NA
Toluene	343	68.6	0.76*	4.5	1.5	1.7	3.8	9.5	4	4.2	110	56	39
1,2,4-Trimethylbenzene	NE	NE	25	380	47	88	21	320	23	37	610	410	97
1,3,5-Trimethylbenzene	NE	NE	28	79	8.1	3.9	58	130	17	1.1	180	170	22
Total Xylene	620	124	86.1	545	42.8	85.1	121	671	33.2	32.4	2820	1056	378
TOTAL (P/VOCs)			233.5	1833.5	293.7	368.1	387.2	1732.5	569.2	419.5	6278	3565	2254
Metals (ppb):													
Lead	15	1.5	4.1*	NA	NA	NA	4.9*	NA	NA	NA	4.0*	NA	NA
Geochemical Data (ppm):													
Sulfate	NE	NE	12	18	14	NA	20	27	17	NA	10	7.2	11
Nitrate	10	2	< 0.026	< 0.026	0.084	NA	< 0.026	< 0.026	0.06	NA	0.079*	< 0.026	0.057
Alkalinity	NE	NE	640	500	720	NA	480	420	510	NA	550	690	670
Field Measurements:													
pH	NE	NE	NM	7.18	NM	NM	NM	7.29	NM	NM	NM	6.98	NM
S. Conductivity (umhos/cm)	NE	NE	NM	1063	NM	NM	NM	1062	NM	NM	NM	1133	NM
Dissolved Oxygen (mg/l)	NE	NE	3.25	0.19	0.17	0.8	0.33	0.12	0.16	0.72	2.49	0.12	0.17
Total Iron (ppm)	NE	NE	NM	1.0	NM	NM	NM	0.5	NM	NM	NM	0.5	0.87
- Ferrous Iron (ppm)	NE	NE	NM	0.5	NM	NM	NM	0.0	NM	NM	NM	0.0	NM
= Ferric Iron (ppm)	NE	NE	NM	0.5	NM	NM	NM	0.5	NM	NM	NM	0.5	NM
NE = Not Established; NA = Not Analyzed; ND = No Data (above the Limit of Detection); ES = Enforcement Standard; PAL = Preventive Action Limit; NI = Not Installed													
* = Parameter detected above the Limit of Detection (LOD), but below the Limit of Quantitation (LOQ)													
Bolded = Parameter detected above the PAL													
Bolded and Shaded = Parameter detected above the ES													

NE = Not Established; NA = Not Analyzed; ND = No Data (above the Limit of Detection); ES = Enforcement Standard; PAL = Preventive Action Limit; NI = Not Installed

\* = Parameter detected above the Limit of Detection (LOD), but below the Limit of Quantitation (LOQ)

Bolded = Parameter detected above the PAL

Bolded and Shaded = Parameter detected above the ES

10-Jun-99

**TABLE 3 Continued**  
**FIELD MEASUREMENTS AND GROUNDWATER ANALYTICAL RESULTS**

Nigli's Bar, Oshkosh, WI

PARAMETERS:		MW - 4				MW - 5			
		27-Feb-98	27-May-98	16-Sep-98	23-Feb-99	27-Feb-98	27-May-98	16-Sep-98	23-Feb-99
<b>Water Table Elevation:</b>									
Depth to Groundwater			7.73	5.49	5.34	7.88	4.54	4.28	4.45
Groundwater Elevation			746.10	748.34	748.49	744.95	748.29	748.55	748.38
<b>Direct Fuel Parameters:</b>		ES		PAL					
GRO (ppm)		NE	NE	< 50	NA	740	NA	NA	NA
DRO (ppm)		NE	NE	520	NA	2000	NA	NA	NA
<b>Volatile Organic Compounds:</b>									
Benzene	5	0.5	< 0.41	< 0.26	< 0.26	14	27	26	15
n-Butylbenzene	NE	NE	< 0.31	NA	NA	1.9	NA	NA	NA
Chloroethane	400	80	< 0.25	NA	NA	0.30*	NA	NA	NA
1,2-Dichloroethane	5	0.5	< 0.24	NA	NA	40	23	18	9.4
Ethylbenzene	700	140	< 0.23	< 0.24	< 0.24	15	260	260	210
Isopropylbenzene	NE	NE	< 0.27	NA	NA	0.52*	NA	NA	NA
p-Isopropyltoluene	NE	NE	< 0.22	NA	NA	< 0.22	NA	NA	NA
Methylene Chloride	5	0.5	< 0.22	NA	NA	< 0.22	NA	NA	NA
Methyl-tert-butyl-ether	60	12	< 0.53	0.23*	< 0.22	< 0.53	< 0.64	< 0.64	< 0.32
Naphthalene	40	8	< 0.66	NA	NA	2.3	NA	22	26
n-Propylbenzene	NE	NE	< 0.27	NA	NA	0.60*	NA	NA	NA
Toluene	343	68.6	< 0.28	< 0.21	< 0.21	2.7	8.6	2.8	6.8
1,2,4-Trimethylbenzene	NE	NE	< 0.30	< 0.86	< 0.86	18	190	21	44
1,3,5-Trimethylbenzene	NE	NE	< 0.25	< 0.54	< 0.54	68	64	25	14
Total Xylene	124	< 0.79	< 1.34	< 1.34	< 1.34	164	347	24.8	50
<b>TOTAL (P)VOCS</b>			0	0	0	325.9	919.6	399.6	375.2
<b>Metals:</b>									
Lead	15	1.5	2.0*	NA	NA	3.1*	NA	NA	NA
<b>Geochemical Data:</b>									
Sulfate (ppm)	NE	NE	92	83	90	< 2.0	7.2	2.8	NA
Nitrate (ppm)	10	2	0.16	< 0.026	0.056	< 0.026	< 0.026	0.058	NA
Alkalinity (ppm)	NE	NE	450	510	540	390	440	460	NA
<b>Field Measurements:</b>									
pH	NE	NE	NM	7.42	NM	NM	7.37	NM	NM
S. Conductivity (umhos/cm)	NE	NE	NM	1002	NM	NM	1915	NM	NM
Dissolved Oxygen (mg/l)	NE	NE	1.21	0.12	0.17	0.44	0.16	0.14	1.6
Total Iron (ppm)	NE	NE	NM	0.5	NM	NM	0.5	NM	NM
- Ferrous Iron (ppm)	NE	NE	NM	0.0	NM	NM	0.0	NM	NM
= Ferric Iron (ppm)	NE	NE	NM	0.5	NM	NM	0.5	NM	NM

NE = Not Established; NA = Not Analyzed; ND = No Detect (above the Limit of Detection); ES = Enforcement Standard; PAL = Preventive Action Limit; NI = Not Installed  
 \* = Parameter detected above the Limit of Detection (LOD), but below the Limit of Quantitation (LOQ)  
 Bolded = Parameter detected above the PAL  
 Bolded and Shaded = Parameter detected above the ES

PARCEL ID #

90600890000

A

A'

MW-4

B-1

B-4

B-2

B-6

B-7

MW-2

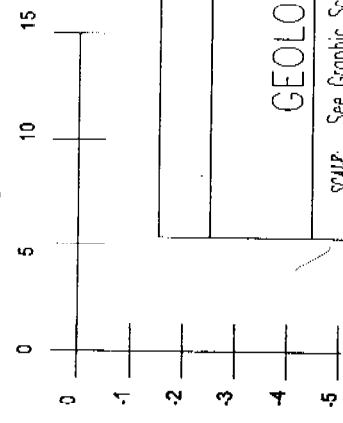
?

CONCRETE PAVEMENT  
CLAY, fill, silty, red brown  
to brown, some grav., moist.

CLAY, silty, red brown  
to brown, moist.

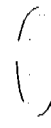


Graphic Scale (feet)  
Vert. Exag. = 5X

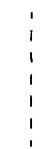


**LEGEND**

Approximated extent of  
contamination in soil.



Groundwater surface as  
measured on Feb. 23, 1999.



NIGL'S BAR - OSHKOSH, WI

**FIGURE 3**

**GEOLOGIC CROSS SECTION**

SCALE: See Graphic Scale

DATE: May 31, 1999

Environmental Compliance Consultants, Inc.

BY: C. EWALD